

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:23-cr-67

vs.

CLIFTON EARL MONTGOMERY, JR.,

District Judge Michael J. Newman

Defendant.

ORDER: (1) GRANTING DEFENDANT CLIFTON EARL MONTGOMERY, JR.'S UNOPPOSED MOTION TO REVOKE HIS DETENTION ORDER (Doc. No. 13); (2) DIRECTING THE U.S. MARSHALS TO RELEASE MONTGOMERY BY AUGUST 9, 2023 TO U.S. PRE-TRIAL SERVICES; AND (3) DIRECTING U.S. PRE-TRIAL SERVICES TO PLACE MONTGOMERY IN HOME DETENTION WITH LOCATION MONITORING AT THE HOME OF HIS WIFE, NAKISHA MONTGOMERY, IN INDIANAPOLIS, INDIANA, WITH PERMISSION TO TRAVEL TO MEDICAL APPOINTMENTS

On July 10, 2023, U.S. Magistrate Judge Caroline H. Gentry placed Defendant Clifton Earl Montgomery, Jr. in pre-trial detention. Doc. No. 10. Montgomery now moves the Court to revoke his detention order pursuant to 18 U.S.C. § 3145(b). Doc. No. 13. He contends, in support of his motion, that he faces various health conditions and possibly has cancer. *Id.* at PageID 33. Despite best efforts, his needs are beyond the services that the Montgomery County Jail provides. *Id.* Moreover, Montgomery is currently scheduled for medical appointments in Indiana on August 10, 2023 and August 13, 2023. *Id.* If granted release from custody, Montgomery will reside at the home of his wife, NaKisha Montgomery, in Indianapolis, Indiana, permitting him to attend these appointments. *Id.* The Court held a hearing regarding Montgomery's motion on August 8, 2023. The Government stated on the record at the hearing that it does not oppose Montgomery's motion, provided he remains on home detention with location monitoring.

A defendant may move to revoke or amend a detention order under 18 U.S.C. § 3145(b). A district judge must then review *de novo* a magistrate judge's detention order. *Id.*; *United States v. Yamini*, 91 F. Supp. 2d 1125, 1130 (S.D. Ohio 2000); *United States v. Williams*, No. 2:20-cr-142, 2020 WL 6866404, at *2 (S.D. Ohio Nov. 23, 2020). When reviewing the magistrate judge's detention order, the district judge relies on the 18 U.S.C. § 3142(g) factors: "(1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the person; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release." *United States v. Webb*, No. 00-6368, 2000 WL 1721060, at *1–2 (6th Cir. Nov. 6, 2000). A Court will order a defendant detained upon finding that there are no conditions that "will reasonably assure the appearance of the person as required and the safety of any other person and the community." 18 U.S.C. § 3142(e)(1).

Upon review of the record and with consultation from all parties, the Court finds it appropriate to grant Montgomery's motion to revoke his detention order and release him from custody at the Montgomery County Jail. The Court finds that there are conditions of release that will assure both Montgomery's appearance and community safety. The Government articulated at the hearing that Montgomery's legal troubles stem from social connections in Dayton, Ohio. Therefore, placing him on home detention in Indiana, with permission to attend medical appointments, will ensure that there is no risk to the community. *See United States v. Spivak*, 555 F. Supp. 3d 541, 548 (N.D. Ohio 2021) ("[T]he record supports a determination that there are conditions that will reasonably mitigate any character concerns"). These conditions will also ensure that Montgomery receives the healthcare he requires.

Accordingly, the Court **GRANTS** Montgomery's unopposed motion to revoke his detention order. Doc. No. 13. The Court **DIRECTS** the U.S. Marshals to release Montgomery by August 9, 2023 to U.S. Pre-Trial Services. Montgomery's wife shall promptly drive him

without delay from Dayton, Ohio to Indianapolis, Indiana. The Court **DIRECTS** U.S. Pre-Trial Services to place Montgomery in home detention with location monitoring at the home of his wife, NaKisha Montgomery, in Indianapolis, Indiana, with permission to travel to medical appointments.

IT IS SO ORDERED.

August 8, 2023

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge

cc: U.S. Marshal
U.S. Pre-Trial Services